



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG246

Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: NMFS has determined that 14 exempted fishing permit (EFP) applications warrant further consideration and is requesting public comment on the applications. Thirteen EFP applicants request an exemption from a prohibition on the use of unauthorized fishing gear to harvest highly migratory species (HMS), and one EFP applicant requests an exemption from a prohibition on the use of pelagic longline gear in the Exclusive Economic Zone (EEZ) to harvest HMS under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). These applicants request the exemption to test the effects and efficacy of using deep-set buoy gear (DSBG), deep-set linked buoy gear (DSLBG), or deep-set short longline (DSSLL) to harvest swordfish and other HMS off of the U.S. West Coast.

DATES: Comments must be submitted in writing by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on the pending EFP applications, identified at the e-Rulemaking portal by NOAA-NMFS-2018-0063, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to

www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0063, click the

“Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail: Attn: Chris Fanning, NMFS West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2018-0063” in the comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The EFP applications and other relevant information referenced in the Supplementary Information section below can accessed at:

http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/status_exempted_permits.html.

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS West Coast Region, 562-980-4198.

SUPPLEMENTARY INFORMATION:

DSBG fishing trials have occurred for the past eight years under research permits (2011-2015) and EFPs (2015-2018)) in the U.S. West Coast EEZ off California. The data collected

from this fishing activity have demonstrated that about 95% of DSBG fish species caught are marketable (75% swordfish, 3% opah, and 17% marketable sharks). Non-marketable fish species catch rates have remained low and all non-marketable catch were released alive. Because DSBG is actively tended by the fishermen, strikes (i.e., when the fish pulls on the hook and line) may be detected within minutes of a catch on the line; as a result, all catches can be attended to quickly, with catch brought on board the vessel in good condition. To date, DSBG has had two interactions with protected species. In both instances, the interaction was with a Northern elephant seal, and in both instances the animal was not seriously injured and was released alive. This species is protected by the Marine Mammal Protection Act, but it is not listed as threatened or endangered under the Endangered Species Act.

DSLBG research fishing trials have been conducted with a total of 40 sets in 2015–2017 and produced similar results to DSBG. Swordfish and other marketable fish species have represented about 90% of the catch (68% swordfish, 2% opah, 5% escolar, and 16% marketable sharks). Non-marketable fish species were released alive due to quick DSLBG strike detection and active gear tending, which has a similar time frame as with DSBG. Research fishing trials are still ongoing with DSLBG. To date, there have been no interactions with protected species using DSLBG.

At the November 2017 and March 2018 Pacific Fishery Management Council (PFMC) meetings, the PFMC reviewed 15 applications for EFPs. Based, in part, upon recommendations by the PFMC's HMS Management Team, the PFMC recommended that NMFS consider issuing EFP's to authorize use of DSBG and/or DSLBG to 13 of the applicants (see Table 1). These are also proposed to take place in the U.S. West Coast EEZ off California. These recommendations can be found on the PFMC's website at <https://www.pfcouncil.org/wp->

content/uploads/2017/11/1117decisions.pdf and *https://www.pcouncil.org/wp-content/uploads/2018/03/0318_Decision_Summary_Document.pdf*

In addition, in February 2018 the Regional Administrator for the NMFS West Coast Region directly received an EFP application pursuant to 50 CFR 600.745 from Mr. John Hall for one vessel to fish with DSSLL in the U.S. EEZ off the West Coast, not less than 20 nautical miles offshore from the U.S.-Mexican border to the Oregon-Washington border. Mr. Hall proposes to use deep set pelagic longline gear with a main line of five nautical miles in length and not less than 15 hooks per buoy and to target HMS. Mr. Hall also intends to employ a number of marine mammal, sea bird, sea turtle, and shark mitigation measures (e.g., use of large, weak circle hooks, a hydraulic line shooter, a Tori bird scaring line, fusiform fish bait, and no wires in the construction of the branch lines). The proposed and existing HMS EFPs applications, conditions, and relevant analyses and decisions leading to the current status of each application can be found on NMFS West Coast Region's "Status of Exempted Fishing Permits" Web page (http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/status_exempted_permits.html).

Table 1 – U.S. WEST COAST HMS EFP APPLICATIONS FOR DSBG, DSLBG, AND DSSLL

Applicant(s)	Date of PFMC recommendation	DSBG	DSBG	DSSLL	Number of vessels
Carson, Thomas and Perez, Nathan ...	March 2018	X	X		1

Breneman, Robert	March 2018	X			1
Breneman, Scott	March 2018	X			1
Dagama, John	March 2018	X			1
Fuller, Daniel and Fuller, William	March 2018	X			1
Funderberg, Clint	March 2018	X	X		1
Hall, John	N/A			X	1
Hyman, Ben	March 2018	X			1
Scarbrough, Tyler	March 2018	X			1
Surgener, Greg	March 2018	X			1
Sutton, William	March 2018	X	X		1
White, Matt	March 2018	X			1
Wright, Thomas	March 2018	X			1
Mintz, Stephen	November 2017	X	X		1

NMFS is requesting public comment on the 13 DSBG/DSLBG applications recommended for consideration by the PFMC and the one DSSLL application received directly from the applicant pursuant to 50 CFR 600.745. If all applications are approved, the EFPs would allow up to 13 vessels to fish with DSBG, up to four vessels to fish with DSLBG, and one vessel to fish with DSSLL throughout the duration of each EFP, in portions of the U.S. West Coast EEZ. These vessels would be permitted to fish exempt from the prohibitions of the HMS FMP pertaining to non-authorized gear types. Aside from the exemption described above, vessels

fishing under an EFP would be subject to all other regulations implemented in the HMS FMP, including measures to protect sea turtles, marine mammals, and seabirds.

NMFS will consider all public comments submitted in response to this **Federal Register** Notice prior to issuance of any EFP. Additionally, NMFS will analyze the effects of issuing EFPs in accordance with the National Environmental Policy Act and NOAA's Administrative Order 216-6, as well as for compliance with other applicable laws, including Section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), which requires the agency to consider whether the proposed action is likely to jeopardize the continued existence and recovery of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 1, 2018.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2018-12167 Filed: 6/5/2018 8:45 am; Publication Date: 6/6/2018]